Cleveland, Ohio, and Nathan Sinai, D. P. J. M. S., of the University of Michigan.

On Monday evening, June 13, at 8 o'clock a special joint meeting of physicians and dentists will be held in the Major Theater in the Beaux Arts Building at Eighth and Beacon streets, at which time Doctor Haden will speak on "The Present Status of Dental Infection in Clinical Medicine." Doctor Sinai will address the meeting on the subject of "The Social Evolution in Medicine and Dentistry."

A cordial invitation is extended to the members of the medical fraternity to be present at this meeting as well as the sessions in the Biltmore Hotel from Monday to Wednesday.

Pasteur Society of Central California.—The last regular meeting of the Pasteur Society of Ceneral California was held in San Francisco, May 11, 1932. About ninety members and guests attended the dinner, and the following program was presented on psittacosis, or parrot fever.

Dr. H. L. Wynns, epidemiologist of the State Department of Health, spoke on the epidemiological investigation of several cases of psittacosis in California. Dr. J. B. Luckie, vice-president of the Pasadena Hospital, gave the clinical aspects of the disease. Dr. K. F. Meyer, director of the Hooper Foundation for Medical Research, presented an address on the history of psittacosis.

MEDICO-LEGAL

OPINION OF CALIFORNIA ATTORNEY GENERAL ON CHIROPRACTORS SIGNING DEATH CERTIFICATES

Considerable interest was recently aroused by statements which appeared in the lay press that chiropractors would hereafter be permitted to sign death certificates in California.

For the information of members of the California Medical Association, this issue of CALIFORNIA AND WESTERN MEDICINE prints the opinion which Attorney-General U. S. Webb of California rendered to District Attorney Thomas Whelan of San Diego County, who brought up the subject of the rights of chiropractors to sign death certificates in California.

The opinion of Attorney General Webb follows:

San Francisco, March 25, 1932.

Honorable Thomas Whelan,
District Attorney, San Diego County,
Court House,
San Diego, California.

Dear Sir:

We have your communication of the 4th inst. in which you enclose a copy of an opinion rendered by your office to your County Health Department in the matter of the privilege of chiropractic licentiates to sign death certificates.

You point out that Section 13 of the Initiative Chiropractic Act of 1922 (Deering's General Laws, 1923, Act 4811) states that "chiropractic licentiates shall observe and be subject to all state and municipal regulations relating to all matters pertaining to the public health, and shall sign death certificates and make reports as required by law to the proper authorities, and such report shall be accepted by the officers of the departments to which the same are made."

You have reached the conclusion that although the above section might appear to authorize chiropractic licentiates with no further licenses or certificates from the State of California to sign death certificates, this is not a proper construction of the law when considered in connection with other statutes of this state.

You also call attention to the fact that Section 18 of the said Initiative Act provides that nothing therein contained shall be construed as repealing the "Medical Practice Act" of June 2, 1913, or any subsequent amendments thereof, except in so far as that act, or said amendments, may conflict with the provisions of the Initiative Act as applied to persons licensed under said Initiative Act to which extent any and all acts or parts of acts in conflict therewith are repealed.

You have advised that in order to be qualified to sign death certificates, the licentiate must be a physician as defined in the Medical Practice Act of this state.

We will first take up the vital statistics registration law of California (Act 9008, Deering's General Laws, 1923), being Chapter 378 of the Statutes of 1915, as amended. This is an act to provide a central bureau for the preservation of records of marriages, births and deaths, and to provide for the registration of all births and deaths, the establishment of registration districts under the superintendence of the State Bureau of Vital Statistics, etc. The State Board of Health is directed to maintain a Bureau of Vital Statistics, which shall have charge of such matters as above described. The board is required to appoint a state registrar, who shall be the director of vital statistics. The state registrar is required, under the direction of the State Board of Health, to have charge of the registration of births, deaths and marriages, and shall procure the registration of the same in each primary registration district as constituted in the act, and also have this registration in the Bureau of Vital Statistics in the State Board of Health at the capital of the state.

Section 7 describes the form of a death certificate. Among other things it is provided, in subdivision 17 of said section 7, that there must be a certification as to medical attendance on the decedent, and the "signature and address of physician or official making the medical certificate." Here we see a description of the person authorized to sign a death certificate as being either a "physician" or "official making the medical certificate." The theory of your opinion is that only a physician or such an official as, for instance, a coroner where there has been no medical attendance, can sign the death certificate. There are several other references in this vital statistics registration law to the duties of "physicians" in the premises. Of course, a chiropractor might be a physician, and also, without being a physician, might be a coroner. In other words, you have reconciled the Chiropractic Initiative Act with the General Medical Practice Act, and the Vital Statistics Registration law. You conclude that chiropractors may make such death certificates only when qualified under the provisions of the other statutes.

* * *

An examination of the Medical Practice Act of this state, and also of the Initiative Chiropractic Act, shows a very clear distinction between physicians and drugless practitioners. Section 8 of the Medical Practice Act, being General Act 4807, Deering's General Laws, 1923, gives the forms of certificates that may be issued. They are, first, physicians' and surgeons' certificates; second, a certificate authorizing the holder thereof to treat injuries, deformities or other physical or mental conditions without the use of drugs or what are known as medical preparations, and without in any manner severing or penetrating any of the tissues of human beings, etc., which certificate shall be designated "drugless practitioner's certificate," and then other forms of certificates in which we are not interested are described.

Various requirements in the act provide for considerable qualifications for an applicant for physician's and surgeon's certificate in addition to those provided for an applicant for a drugless practitioner's certificate. The preliminary educational requirements are different, and the subjects to be studied and the hours of such study in order to secure such certificates are in no way comparable.

One of the grounds for suspending the right of the holder of a certificate to practice, or of revoking his certificate, is "the use by the holder of a 'drugless practitioner's certificate' of drugs or what are known as medicinal preparations, in or upon any human being, or the severing or penetrating by the holder of said 'drugless practitioner's certificate' of the tissues of any human being in the treatment of any disease, injury or deformity . . . . . " etc., etc. (Section 14, Medical Practice Act as amended Statutes 1929, page 626.)

* * *

Clearly, prior to the Chiropractic Initiative Act, a chiropractor, not being a physician, could not sign a death certificate. However, the Initiative Chiropractic Act was adopted after the above acts of the legislature. As above noted, it states in Section 13 thereof that "chiropractic licentiates shall observe and be subject to all state and municipal regulations relating to all matters pertaining to the public health, and shall sign death certificates and make reports as required by law to the proper authorities, and such reports shall be accepted by the officers of the departments to which the same are made."

This language would appear to be so clear as to not permit of judicial construction.

I am advised by the state registrar of vital statistics that it has been their policy to accept such death certificates so signed by chiropractors. This administrative construction of the law is entitled to certain weight. Also, there would be no power in the legislature to amend this initiative act, inasmuch as the act itself vested no such power in the legislature.

In Section 18 of the act it is particularly provided that all acts or parts of acts in conflict with the initiative act are repealed.

* * *

This office has rendered certain opinions on the general subject matter of the Chiropractic Act. In Opinion 4943, rendered to the California State Board of Health under date of February 15, 1924, we had before us Section 3084

of the Political Code providing, in part, that no burial shall take place without a certificate "signed by a physician." We advised that the word "physician" as used in this section meant a licensed physician, or, in other words, one duly authorized to engage in the practice of his profession. There was no reference in this opinion to the Initiative Chiropractic Act, nor to the proper construction of Sections 7 and 18 thereof.

In opinion 5255, rendered to the Honorable Walter A. Yarwood, secretary of the State Athletic Commission, under date of March 2, 1925, we advised, with reference to an initiative measure adopted at the general election of 1924. This act governed boxing and wrestling contests, and provided that every club holding a license to conduct the contests provided for in the act shall have in attendance a "licensed physician," and the act further provided for the issuance of a license by the commission to physicians. We advised that chiropractors receiving licenses under their own act were not to be considered as "licensed physicians." This opinion, however, had nothing to do with the right of a chiropractor to sign a death certificate.

Under date of January 9, 1929, we advised the Honorable Charles R. Detrick, insurance commissioner of the State of California, that a chiropractor will not be recognized as a physician who might visit disabled persons to comply with the provisions in accident and health policies requiring that in case of such disability the insured must be visited by a regularly licensed physician. This, however, has nothing to do with the question of your present inquiry.

Under date of July 7, 1931, in an unofficial communication addressed to Alex M. Lesem, M. D., City Health Officer of San Diego, we advised that a chiropractor was not authorized to sign death certificates. However, this communication was based on the provisions of the Vital Statistics Registration Law above discussed, and the Act of 1904 relating to the registration of deaths (Statutes 1905, page 115), and no consideration was given to the later Initiative Chiropractic Act.

After careful consideration of these various acts, and particularly of the language found in Sections 7 and 18 of the Chiropractic Act, we are of the view that the act clearly evidences an intention to authorize chiropractors to sign death certificates, and requires the accepting of such certificates by the proper authorities without any further requirement that such a certificate be signed either by a physician or by an official authorized to sign a death certificate.

Yours very truly,

Signed: U. S. WEBB, Attorney General,
By Frank English, Deputy.

Filing No. 7965.

* * *

Appeal From the Appellate Department Decision Regarding Court Jurisdiction in a Medico-Legal Case

Somewhat pertinent to the preceding opinion of Attorney-General Webb of California, is an article which appeared in the San Francisco *Recorder* of May 13, 1932, which deals with the chiropractor case which was commented on in the May CALIFORNIA AND WESTERN MEDICINE, page 371. What follows here should be read in conjunction with the reference just given. When the final opinion is rendered, a note will be made thereon in CALIFORNIA AND WESTERN MEDICINE. The article follows:

That the Appellate Department of the Superior Court is not the court of last resort on appeals from municipal courts in counties in which such courts have been established (Los Angeles and San Fransisco), but that the Supreme Court has inherent power to set aside decisions of the Appellate Departments that are in conflict with rulings of the District Courts of Appeal, is declared in a petition for writ of error filed in the Supreme Court by City Prosecutor Charles P. Johnson of Los Angeles, attacking a ruling of the Appellate Department of the Superior Court of Los Angeles, holding that W. I. Schuster, a chiropractor, could not be prosecuted under the Medical Practice Act for any misuse of the prefix "Dr." but must be prosecuted therefor under the Chiropractic Act, if at all. (People etc. vs. Schuster, 2 Cal. Sup. 11.)

The Appellate Department based its conclusion that Schuster could not be prosecuted under the Medical Practice Act on the premise that Section 17 of the act, relating to chiropractors, had been repealed by the enactment of the Chiropractic Act.

The District Court of Appeal, according to the contentions of the city prosecutor, in ruling on this point in the case of People vs. Mills, 74 Cal. App. Rep. 353, held that there was no conflict between the two acts and that a person violating the Medical Practice Act could be prosecuted thereunder, no matter if he could be prosecuted under the Chiropractic Act. Deputy City Prosecutors John L. Bland and Joe Matherly presented the petition for writ of error.

Contrary to the Appellate Department's conclusion, they assert, it was also decided by the District Court of Appeal in People vs. Machado, 99 Cal. App. Rep. 702, that a license to practice chiropractic is not a defense to a charge under the Medical Act.

The legislature failed to provide for a review by the Supreme Court on conflicts between Appellate Department and District Court of Appeal decisions, the petitioners add, despite the fact that the department is an inferior court.

Unless the Supreme Court can take jurisdiction, the petition continues:

"the anomalous condition exists whereby the decisions of the inferior court are superior to the decisions of the said District Court of Appeal for the reason that the right exists to have the Supreme Coure determine the correctness of the decision of the said District Court, while no means exists whereby the errors of the said Appellate Department of the Superior Court may be reviewed."

Uniformity of decisions is also impossible because of the situation, petitioners declare, because the Appellate Department's rulings are binding on municipal and justices' courts in Los Angeles and San Francisco counties, but the inferior courts of other counties are bound by District Court of Appeal decisions.

As authority for the issuance of a writ of error, the petitioners cited Ex Parte Thistleton, 52 Cal. 220; Adams & Company vs. Town, 3 Cal. 247; S. P. & N. R. R. Company vs. Harlan, 24 Cal. 334; Widber vs. Superior Court, 94 Cal. 430.

CALIFORNIA STATE HOSPITALS

During the last several years the organization and administration of the California State Hospitals has been a subject of considerable discussion among medical and lay citizens who were interested therein. The subject has also been given consideration at several meetings of the California Medical Association Council.

In item 16 of the Council meeting of May 4, 1932 (see page 455), reference is made to a special report which was submitted by Dr. George G. Hunter of Los Angeles. That report is here printed for the information of members of the California Medical Association. Report follows:

REPORT OF CALIFORNIA MEDICAL ASSOCIATION COMMITTEE ON MEDICAL EDUCATION AND HOSPITALS

To the Chairman and Council:

In conformity with the resolution passed by the Council of the California Medical Association referring to this committee the matter of investigation and suggestion as to the methods to accomplish, first, higher type of medical and executive service in our state hospitals, and second, protection to the superintendents and medical staffs of said hospitals against summary dismissal for political expediency, your committee offers the following report:

In view of the fact that the financial affairs and general policies, with respect to state hospitals, are largely in the hands of the Department of Finance, the prime concern of the Director of Institutions becomes medical administration and rehabilitation of the sick. It would therefore seem proper that the director be a medical man with a background of experience in mental diseases who will have the point of view necessary to bring the hospital efforts and aims into accord with present-day conceptions.

We therefore recommend that the Director of Institutions shall have as his qualifications for appointment a degree from a well-recognized nonsectarian medical school; that he be a graduate of at least five years' standing and hold an unrevoked license to practice medicine in California.

As the major interest of the director has to do with hospitals for mental disease, we believe that his usefulness will be enhanced by at least two years actual experience in a hospital for mental diseases. However, in view of the fact that corrective institutions, the narcotic hospitals, and the homes for feeble-minded are also under the jurisdiction of the department of institutions, we do not hold rigidly to the requirement that such experience shall be one of the essential prerequisites to his appointment.

We are of the opinion that the selection of the director would be perhaps freer from political power